

## MEMORANDUM

**DATE:** April 12, 2013  
**TO:** Will Clemens  
**FROM:** Stephanie Downs  
**RE:** **Summary of Documents for Proposed Certificates of Participation;  
County of San Luis Obispo (Acting on Behalf of CSA 10A), Water  
System Improvement Project**

### Introduction

This memorandum outlines for you, the members of the Board of Supervisors and the members of the SLO County Financing Authority (the “**Authority**”) Governing Board the four basic legal agreements which provide for repayment of the USDA-RD loan from water system revenues through execution and delivery of certificates of participation (the “**COP’s**”).

In furtherance of obtaining approval by these two boards included with this memorandum are copies of the following documents:

1. The four basic legal agreements, as follows:
  - a. Purchase Agreement
  - b. Installment Sale Agreement
  - c. Trust Agreement
  - d. Assignment Agreement
2. Board of Supervisors Resolution approving basic legal documents
3. Authority Resolution

### The Four Agreements and the COP’s

The County, the County’s Auditor-Controller (the “**Auditor-Controller**”) and the Authority will be involved in implementing the execution, delivery and sale of the COP’s to USDA-RD to satisfy the condition set forth in a Letter of Conditions of USDA-RD, (the “**Letter of Conditions**”).

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The four agreements follow a standard format for COP transactions relating to a USDA-RD loan, where the money to repay the principal of and the interest on the COP's is to come from the water system enterprise fund for CSA 10A. The four agreements are summarized as follows:

1. Under the Purchase Agreement, the Authority agrees to purchase the entire existing CSA 10A water system for a nominal consideration, and the County, acting on behalf of CSA 10A, agrees to sell it to the Authority.
2. Under the Installment Sale Agreement, the Authority agrees to implement the pipeline replacement project (the “**Project**”) as an improvement to the existing system and to sell the improved system back to the County. The County agrees (a) to accept appointment as the agent of the Authority to actually implement the Project, (b) to make Installment Payments on account of the agreed purchase price (which is matched up to the USDA-RD loan) from the water system revenues, and (c) to maintain water system rates and charges at a level which assures the County's ability to (i) maintain the system and (ii) make timely payment of the Installment Payments and any other payment obligations secured by and payable from the water system revenues.
3. Under the Trust Agreement, the Auditor-Controller is appointed as the initial Trustee. The Trustee agrees to (a) provide for execution and delivery of the COP's to USDA-RD as the purchaser of the COP's, in exchange for the loan proceeds, (b) to receive and administer the loan proceeds to pay the authorized costs and expenses of the Project and the incidental expenses of the COP financing program, and (c) to receive the Installment Payments and apply the moneys to repayment of the principal of and interest on the USDA-RD loan (semi-annual payments to be made by wire transfer).

Pursuant to the Letter of Conditions, USDA-RD requires the County to provide a pre-authorized debit payment process, by which USDA-RD will automatically debit the designated County bank account for the semi-annual payments on the COP's, so that the Trustee will not actually have to take any action to make the payments to USDA-RD.

In the unlikely event of a default by the County in making the Installment Payments, the Trustee is obligated to pursue one or more of the prescribed “remedies,” and in that case the Auditor/Controller would probably opt, as provided in the Trust Agreement, to hire an outside Trustee as Co-Trustee (most likely, a bank which provides such services).

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4. Under the Assignment Agreement, the Authority assigns to the Trustee the entitlement to receive the Installment Payments.

The net result of these four agreements is that the Authority has no continuing function. The combined effect of the agreements is that, under normal circumstances, only the County and the Auditor/Controller have any actual role to play to (a) implement the Project and (b) repay the loan. As mentioned above, in the unlikely event of a County default in making an Installment Payment on time, the Auditor/Controller, as Trustee, would very likely turn to the services of an outside Co-Trustee to assist in pursuing remedies to cure the default.

While prior experience indicates that USDA-RD will ordinarily bend over backwards to try to help its local agency borrowers out in circumstances involving financial hardship, thereby making it unnecessary for the Trustee to take formal action, it is nevertheless possible that a more formal approach may become necessary in the effort at curing a payment default, and that's why the Trust Agreement provides that the Trustee is authorized to employ services of a Co-Trustee.

### **Pledge of Water System Revenues**

The Letter of Conditions further requires that payment of the principal of and interest on the COP's must be secured by a lien and pledge of water system revenues, and the Installment Sale Agreement will so provide.

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